APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,565	09/30/2003	Subir Varma	164.1002.08	9981

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EXAMINER
MOORE, IAN N

ART UNIT	PAPER NUMBER
2616	

MAIL DATE	DELIVERY MODE
04/02/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	10/675,565	VARMA ET AL.
	Examiner IAN N. MOORE	Art Unit 2616

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

THE REPLY FILED 10 March 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

    b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

    Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

    (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ They raise the issue of new matter (see NOTE below);

    (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

    NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: _____.

    Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☒ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). 1-15-08

13. ☒ Other: See Continuation Sheet.

/Doris To/
Supervisory Patent Examiner, Art Unit 2616

U.S. Patent and Trademark Office
PTOL-303 (Rev. 08-06)   **Advisory Action Before the Filing of an Appeal Brief**   Part of Paper No. 20080320

Continuation of 11. does NOT place the application in condition for allowance because:
Regarding specification, the applicant argued that, "...applicant submit that implicit in any teaching of new control parameters and new pre-announce packets is the existence of the original parameters and packets which have been changed...it would be obvious to one skilled in the art in reading the specification would the customer parameters are updated as a result of feedback and that there is an original or first determination of parameters packaged into first pre-announce packet which then is changed i.e. further determination into a subsequence or new determination resulting in a new pre-announce packet" see page 9-10.
In response to applicant's argument, examiner agrees with applicant admission that "that implicit in any teaching of new control parameters and new pre-announce packets is the existence of the original parameters and packets which have been changed" and "it would be obvious to one skilled in the art in reading the specification would the customer parameters are updated as a result of feedback and that there is an original or first determination of parameters packaged into first pre-announce packet which then is changed i.e. further determination into a subsequence or new determination resulting in a new pre-announce packet".

In other word, per applicant admission statement, when there is a new, update, or change in the process/method, it is implicit the both original packet and "new" packet are present. Also, it is obvious to one skilled in the art that when there is a change/update, there is a original packet which results in a new packet due to a change or update.

In view of the above, applicant admission statement is considered, and the specification objection is withdrawn.

Regarding claims 45, 47-50, 52-55, 57-59, the applicant argued that, "...Raissinia does not suggest anything in the implementation of each frame in the TDMA process as....Raissina fails to describe such a descriptor packet or the sending for such descriptor packet as the first packet in a time division multiple access frame...Raissinia fails to suggest determination new control parameter to be used by customer equipment, and packaging these new control parameters in new descriptor packets being send a first pre-announce packet in each TDMA frame sent....in the event while Malmgren may describe updated information transmitted...Malmgren fails to suggestive new descriptor packets or positing of any such descriptor packets as new first packet in a new time division multiple access frame" in page 10-13.
In response to applicant's argument, the examiner respectfully disagrees with the argument above.
(1) Raissinia discloses all steps of "determining...", "packaging...", "pre-announcing...in a TDMA frame", determining...", "packaging...", and "pre-announcing...in a TDMA frame" Also, it is well known in the art of mobile communication that TDMA frame is send more than one time in the mobile communication, and the parameters embedded within a new/updated/another TDMA frame is "new/updated/another" parameter. Thus, Raissinia's steps/functions of "determining...", "packaging...", and "pre-announcing...in a TDMA frame" can be repeated for another/new/update TDMA frame with new/updated/another parameter. Malmgren teaches updating and broadcasting new parameters with descriptor packet as a first packet in TDMA frame (see FIG. 2, see col. 4, line 9-15, 30-67; see col. 5, line 55 to col. 6, line 10; abstract; dynamically updating new/updated/another with Broadcast Control Channel (BCCH) as a first data/packet in TDMA frame (see FIG. 2-3); note that updating occurs at second/new transmission after first transmission).
Thus, it is clear that the combined system of Raissinia and Malmgren discloses the argued claimed limitation.

(2) In view of applicant's specification, as indicated by the applicant in the above argument, discloses the mainly "new" physical and MAC characteristic (i.e. physical parameters). Moreover, per FIG. 3A, discloses the steps (i.e. determining...", "packaging...", "pre-announcing" in a TDMA frame. Per specification, it recites "the follow point 310 is reached repeatedly and the steps thereafter are performed repeatedly for each TDMA frame 210".
(3) In view of applicant's claimed invention steps, which discloses "determining...", "packaging...", "pre-announcing..." in a TDMA frame, then repeating determining...", "packaging...", and "pre-announcing..." in a new TDMA frame.
(4) Thus, when comparing applicant disclosures to applicant claimed invention, the first set of steps "determining...", "packaging...", "pre-announcing..." are performed for a new TDMA frame, then the second identical steps "determining...", "packaging...", "pre-announcing..." are repeated for next/another/updated new TDMA frame.
(5) Applicant arguments contradict his own admission statement. First, applicant admits that it is implicit and well known to one skilled in the ordinary art to see that when there is an updating/changing event, there is a original and new packets/parameter. At the same time, applicant is auguring that updating/changing steps of Malmgren is not obvious to form a new packet/parameter. Thus, applicant argument is an error since applicant clearly admitted on the record that it is "implicit" and "obvious to one skill in ordinary art" to see when there is an updating/changing event, there is a original and new packets/parameter.

Continuation of 13. Other:

The information disclosure statement filed 1/15/2008 fails to comply with 37 CFR 1.97(d) because it lacks a statement as specified in 37 CFR 1.97(e). It has been placed in the application file, but the information referred to therein has not been considered.

/I. N. M./
Examiner, Art Unit 2616
3-20-08